

11/16/2020 12:24 PM

Velva L. Price
District Clerk
Travis County
D-1-GN-20-006934
Ruben Tamez

CAUSE NO. D-1-GN-20-006934

CLAUDIA SIMS, an adult person
Plaintiff,

vs.

SUSAN SOUDERS, an adult person;
WERNER ENTERPRISES, INC, a
foreign Corporation,
Defendant

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IN THE DISTRICT COURT
201ST JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, CLAUDI SIMS, ("Plaintiff"), and files this her Original Petition complaining of SUSAN SOUDERS and WERNER ENTERPRISES, INC., ("Defendants") and for causes of action would respectfully show as follows:

I. DISCOVERY PLAN

1.1 Pursuant to TRCP 190.1, Plaintiff respectfully requests that discovery in this case be conducted under Level 2 as set forth in TRCP 190.4.

II. PARTIES

2.1 Plaintiff Claudia Sims is an individual and a resident of Travis County, Texas.

2.2 Defendant Susan Souders is a resident of the State of Ohio whose last known address is 590 W. 5th Street, Apt. 21, Chillicothe, Ohio. At the time of the December 1,

2018 incident, Defendant Susan Souders was conducting business in the State of Texas as she was operating a commercial vehicle in Travis County, Texas at the time she committed a tort, and is thereby subject to the Jurisdiction of Travis County, Texas, under Texas' Long Arm Statute, Tex. Civ. Prac. & Rem. Code §17.042

2.3 Defendant Werner Enterprises, Inc., is a foreign corporation conducting business in the State of Texas at the time of the December 1, 2018 incident. Werner Enterprises, Inc. can be served through its Registered Agent, Corporate Creations Network, Inc., whose address is 5444 Westheimer #1000, Houston, Texas 77056.

2.4 On information and belief, at all times material hereto, Defendant Susan Souders was acting within the course and scope of her employment for Defendant Werner Enterprises. In accordance with the doctrine of *Respondeat Superior*, Defendant Werner enterprises is vicariously responsible and liable for the negligent acts of its employee Defendant Susan Souders.

III. JURISDICTION AND VENU

3.1 The amount in controversy is within jurisdictional limits of this Court. Plaintiffs seek damages greater than \$200,000 but less than \$1,000,000.00.

3.2 County is the proper venue for this action pursuant to the Texas Civil Practice and Remedies Code, Section 15.002(a)(1) because all or a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in Travis County.

IV. CLASSIFICATION

4.1. Plaintiff brings this cause of action against the named Defendants for personal and bodily injuries caused by an incident which occurred on or about December 1, 2018, in Travis County, Texas.

VI. ALLEGATIONS

6.1 On or about December 1, 2018 Plaintiff was traveling northbound on IH 35, in Travis County, in the City Limits of Austin. Defendant Susan Souders who was at all times relevant hereto an employee of Werner Enterprises, Inc., was operating a commercial vehicle, similarly traveling northbound on IH 35 in the adjacent lane to Plaintiff Claudia Sims.

6.2. As Defendant Susan Souders was approaching the 6100 block on IH 35 the driver immediately ahead of Defendant Souders slowed his vehicle due to a construction zone. Defendant Souders was traveling too fast and too close to the vehicle immediately ahead of her to avoid a collision. Defendant Souders executed a sudden and unexpected lane change, without signaling or verifying that it was safe to do so.

6.3. Upon executing a lane change Defendant Souders struck Plaintiff Claudia Sims who was not in a position to avoid the impact.

VII. NEGLIGENCE AGAINST DEFENDANT SUSAN SOUDERS

(First Cause of Action)

7.1 On the occasion in question, Defendant Susan Souder, operated a tractor trailer, owned by Werner Enterprises, in a negligent manner, in that she violated the duty which she owed to Plaintiff to exercise ordinary care in the operation of a commercial vehicle in one or more of the following respects:

A. In failing to keep such lookout as a person of ordinary prudence would have kept under the circumstances;

B. In failing to maintain a safe distance from the vehicle immediately ahead of her to avoid a collision;

C. In failing to keep a reasonable speed as a person of ordinary prudence would have kept under the circumstances;

D. In failing to maintain attention while driving, as a reasonable prudent person would have done under the circumstances;

E. In failing to change lanes safely as a reasonable prudent person would have done under the circumstances.

7.2 Plaintiff would further show that the above and foregoing acts were separate and distinct acts of negligence and that they are the direct and proximate cause of the incident in question and the Plaintiff's resultant injuries as will be more accurately described herein below.

7.3 Each of these acts and omissions, singularly or in combination with such other acts and omissions, constituted negligence which proximately caused the collision and made the basis of this lawsuit, and the damages and injuries suffered by the Plaintiff.

VIII. NEGLIGENCE AGAINST WERNER ENTERPRISES, INC

(Second Cause of Action)

8.1 At all times mentioned herein, Defendant Souders was an employee of Defendant Werner Enterprises, Inc. The commercial vehicle operated by Defendant Souders was listed as being owned by Defendant Werner Enterprises, Inc.

8.2 Upon information and belief, at the time of the incident, Defendant Souders was acting in the course and scope of her employment with Defendant Werner Enterprises, Inc.

8.3 As the employer, Defendant Werner Enterprises, Inc. is responsible for the negligent acts of its employees under the legal doctrine of *Respondent Superior*, including Defendant Susan Souders, who at the time of the incident was acting in the course and scope of her employment for Werner Enterprises, Inc.

8.4 Furthermore, Plaintiff alleges that at all time relevant hereto, Defendant Werner Enterprises, Inc. was responsible for the hiring, training, and supervision of its employees, including Susan Souders.

8.5 Plaintiff Claudia Sims alleges that Defendant Werner Enterprises, Inc. failed to properly train, instruct, and/or supervise its employee, Defendant Susan Souders, with regard to the operation of its commercial vehicle.

8.6 Plaintiff would further show that Defendant Werner Enterprises, Inc.'s failure to properly train and supervise its employee Souders, were separate and distinct acts of negligence and that they are the direct and proximate cause of the incident in question and the Plaintiff's resultant injuries as will be more accurately described herein below.

8.7. Each of these acts and omissions, singularly or in combination with such other acts and omissions, constituted negligence which proximately caused the collision and made the basis of this lawsuit, and the damages and injuries suffered by the Plaintiff.

IX. PLAINTIFF'S DAMAGES

9.1 As a direct and proximate result of the collision, Plaintiff has suffered serious injuries to her body as a whole in that said injuries caused her to suffer severe physical pain, suffering, and mental anguish in the past. In all reasonable probability, Plaintiff Claudia Sims will continue to endure such physical pain, suffering, and mental anguish in the future.

9.2 As a further result of Defendants' negligence, Plaintiff has incurred reasonable and necessary medical expenses associated with the medical treatment and is expected to incur reasonable and necessary medical expenses in the future.

9.3 Plaintiff will show that as a result of the injuries she sustained due to Defendants' negligence, she suffered physical impairment in the past and in all reasonable probability, will continue to so suffer physical impairment in the future.

X. COSTS

10.1 Plaintiff also seeks to recover for all costs of court and prejudgment and post-judgment interest in the maximum amounts allowable by law.

XI. PRAYER

11.1 WHEREFORE PREMISES CONSIDERED, Plaintiff, respectfully prays for the following:

1. Defendants be cited to appear and answer herein, and that upon a final hearing hereof;
2. That after trial on the merits, the Honorable Court enters judgment against Defendants and in favor of Plaintiff for actual damages, consequential damages, incidental damages, compensatory damages, mental anguish damages, costs of court, an expenses of the lawsuit, pre-judgment interest, and post judgement interest, as allowed by law or as plead herein; and
3. For such other and further relief, at law and in equity, to which the Plaintiff may show himself justly entitled.

Respectfully submitted,

SARKISOV & ROESCH, PLLC
14603 Huebner Rd. Bldg. 11
San Antonio, Texas 78230
Attorneys for Plaintiff
Tel: (210) 444-9221
Fax: (210) 634-2286

By: Jan-Georg Roesch
Jan-Georg Roesch, Esq.
Texas State Bar No. 24103523
Jan@srllawpllc.com
Counsel for Plaintiff

COURTESY NOTICE TO DEFENDANT

If you or the owner of the vehicle had insurance at the time of the collision, please forward a copy of this Petition to the Insurance Company.

<https://www.traviscountytexas.gov>**District Clerk - AARO - Attorney Access to Records Online****Details****Updated : Thursday, December 17, 2020 4:34:56 AM****Cause Number**

D-1-GN-20-006934

[Request Documents \(https://www.traviscountytexas.gov/district\)](https://www.traviscountytexas.gov/district)**Style**

SIMS V. SOUDERS

[New Search \(/aaro/\)](/aaro/)**Filed Date**

11/16/2020

Court

201

Type

MOTOR VEHICLE ACCIDENT (GEN LIT)

Case Status

PENDING

Action/Offense**Hearing Date**

Attorney	Type	Party - Full/Business	Party - Person
	DEFENDANT	WERNER ENTERPRISES INC	
	DEFENDANT		SOUNDERS, SUSAN
ROESCH JAN-GEORG	PLAINTIFF		SIMS, CLAUDIA

Date	Court	Party	Description	Category	Pages	
12/2/2020	201	DF	EXECUTED SERVICE	SRVPROCESS	3	Download (/aaro/Default/GetPdf?barCodeId=7386474)
12/1/2020	201	DF	EXECUTED SERVICE	SRVPROCESS	2	Download (/aaro/Default/GetPdf?barCodeId=7384105)
11/23/2020	201	DF	ISS:CITATION	ISSUANCE	1	Download (/aaro/Default/GetPdf?barCodeId=7369704)
11/23/2020	201	DF	ISS:CITATION	ISSUANCE	1	Download (/aaro/Default/GetPdf?barCodeId=7369694)
11/16/2020	201	PL	ORIGINAL PETITION/APPLICATION	PET-PL	8	Download (/aaro/Default/GetPdf?barCodeId=7362374)

[Request Documents \(https://www.traviscountytexas.gov/district-clerk/records-request\)](https://www.traviscountytexas.gov/district-clerk/records-request)[New Search \(/aaro/\)](/aaro/)

C I T A T I O N
T H E S T A T E O F T E X A S
C A U S E N O . D - 1 - G N - 2 0 - 0 0 6 9 3 4

12/17/2020 2:25 PM

Velva L. Price
District Clerk
Travis County
D-1-GN-20-006934
Sandra Henriquez

CLAUDIA SIMS, AN ADULT PERSON

vs.

SUSAN SOUNDERS, AND ADULT PERSON; WERNER ENTERPRISES, INC, A FOREIGN CORPORATION

, Plaintiff

Defendant

TO: SUSAN SOUNDERS
590 W. 5TH STREET, APT. 21
CHILLICOTHE, OHIO 45601

Defendant, in the above styled and numbered cause:

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Attached is a copy of the PLAINTIFF'S ORIGINAL PETITION of the PLAINTIFF in the above styled and numbered cause, which was filed on NOVEMBER 16, 2020 in the 201ST JUDICIAL DISTRICT COURT of Travis County, Austin, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at office, November 23, 2020.

REQUESTED BY:

JAN-GEORG ROESCH
14603 HUEBNER RD BLDG 11
SAN ANTONIO, TX 78230

BUSINESS PHONE: (210) 444-9221 FAX: (210) 634-2286



[Signature]
Velva L. Price
Travis County District Clerk
Travis County Courthouse
1000 Guadalupe, P.O. Box 679003 (78767)
Austin, TX 78701

PREPARED BY: MELISSA ROMERO

R E T U R N

Came to hand on the _____ day of _____, _____ at _____ o'clock _____ M., and executed at _____ within the County of _____ on the _____ day of _____, _____, at _____ o'clock _____ M., by delivering to the within named _____, each in person, a true copy of this citation together with the PLAINTIFF'S ORIGINAL PETITION accompanying pleading, having first attached such copy of such citation to such copy of pleading and endorsed on such copy of citation the date of delivery.

Service Fee: \$ _____

DECLARATION

Sworn to and subscribed before me this the _____

_____ Notary Public / Authorized Person

By: _____

Printed Name of Server _____

Notary Public, THE STATE OF TEXAS _____

_____ County, Texas

D-1-GN-20-006934

SERVICE FEE NOT PAID

P01 - 000100324

RETURN OF SERVICE

State of Texas

County of Travis

201st District Court

Case Number: D-1-GN-20-006934

Plaintiff:

CLAUDIA SIMMS, an adult person

vs.

Defendants:

SUSAN SOUDERS, an adult person; WERNER ENTERPRISES, INC., a foreign Corporation

For:

Jan-Georg Roesch
Sarkisov & Roesch, PLLC
14603 Huebner Rd., Bldg. 11
San Antonio, TX 78230

Received by Travis Wyatt on the 30th day of November, 2020 at 9:15 am to be served on **SUSAN SOUNDERS** by delivering to the Texas Secretary of State, 1019 Brazos, Room 106, Austin, TX 78701.

I, Travis Wyatt, do hereby affirm that on the **30th day of November, 2020** at 2:38 pm, I:

delivered two true and correct copies of this **CITATION, with attached PLAINTIFF'S ORIGINAL PETITION**, after endorsing the date of delivery thereon, to **SUSAN SOUNDERS**, by delivering to the Texas Secretary of State - Citations Unit. Accepted by **Michelle Robinson**, Citation Unit Clerk, in person, at **1019 Brazos Street, Room 106, Austin, Travis County, TX 78701**. An administrative fee of \$55 was also tendered.

My name is Travis Scott Wyatt, my date of birth is 10/20/1971, and my address is 1 Chisholm Trail, Suite 450, Round Rock, TX 78681, USA. I declare under penalty of perjury that the foregoing is true and correct. Executed in Travis County, State of Texas, on the 1st day of December, 2020.


Travis Wyatt
PSC-4959, Exp. 3/31/22

Wyatt Process Service, LLC
1 Chisholm Trail
Suite 450
Round Rock, TX 78681
(512) 501-4391

Our Job Serial Number: WYT-2020001262

C I T A T I O N
T H E S T A T E O F T E X A S
C A U S E N O . D - 1 - G N - 2 0 - 0 0 6 9 3 4

12/2/2020 3:34 PM

Velva L. Price
District Clerk
Travis County
D-1-GN-20-006934
Jessica A. Limon

CLAUDIA SIMS, AN ADULT PERSON

vs.

SUSAN SOUNDERS, AND ADULT PERSON; WERNER ENTERPRISES, INC, A FOREIGN CORPORATION

TO: WERNER ENTERPRISES INC A FOREIGN CORPORATION
BY SERVING ITS REGISTERED AGENT CORPORATE CREATIONS NETWORK
INC
5444 WESTHEIMER #1000
HOUSTON, TEXAS 77056

Defendant, in the above styled and numbered cause:

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Attached is a copy of the PLAINTIFF'S ORIGINAL PETITION of the PLAINTIFF in the above styled and numbered cause, which was filed on NOVEMBER 16, 2020 in the 201ST JUDICIAL DISTRICT COURT of Travis County, Austin, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at office, November 23, 2020.

REQUESTED BY:
JAN-GEORG ROESCH
14603 HUEBNER RD BLDG 11
SAN ANTONIO, TX 78230
BUSINESS PHONE: (210) 444-9221 FAX: (210) 634-2286



[Signature]
Velva L. Price
Travis County District Clerk
Travis County Courthouse
1000 Guadalupe, P.O. Box 679003 (78767)
Austin, TX 78701

PREPARED BY: MELISSA ROMERO

R E T U R N

Came to hand on the _____ day of _____, _____ at _____ o'clock _____ M., and executed at _____ within the County of _____ on the _____ day of _____, _____ at _____ o'clock _____ M., by delivering to the within named _____, each in person, a true copy of the citation together with the PLAINTIFF'S ORIGINAL PETITION accompanying pleading, having first attached such copy of such citation to such copy of pleading and endorsed on such copy of such citation the date of delivery.

Service Fee: \$ _____

Sheriff / Constable / Authorized Person

Sworn to and subscribed before me this _____ day of _____, _____.

AFFIDAVIT

By: _____

Printed Name of Server_____
Notary Public, THE STATE OF TEXAS_____
County, Texas

D-1-GN-20-006934

SERVICE FEE NOT PAID

P01 - 000100326

AFFIDAVIT OF SERVICE

State of Texas

County of Travis

201st District Court

Case Number: D-1-GN-20-006934

Plaintiff:

CLAUDIA SIMMS, an adult person

vs.

Defendants:

SUSAN SOUDERS, an adult person; WERNER ENTERPRISES, INC., a foreign Corporation

For:

Jan-Georg Roesch
Sarkisov & Roesch, PLLC
14603 Huebner Rd., Bldg. 11
San Antonio, TX 78230

Received by Rebecca Chaudhury on the 24th day of November, 2020 at 3:31 pm to be served on **WERNER ENTERPRISES INC, A FOREIGN COPORATION, by serving its Registered Agent, Corporate Creations Network, Inc., 5444 Westheimer #1000, Houston, Harris County, TX 77056.**

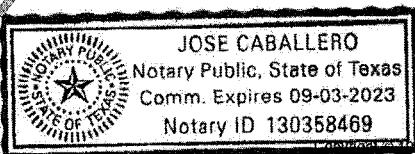
I, Rebecca Ann Chaudhury, being duly sworn, depose and say that on the 25th day of November, 2020 at 1:51 pm, I:

delivered a true and correct copy of this **CITATION, with attached PLAINTIFF'S ORIGINAL PETITION**, after endorsing the date of delivery thereon, to **WERNER ENTERPRISES INC, A FOREIGN COPORATION, by delivering to its Registered Agent, Corporate Creations Network, Inc.** Accepted by Maria Newman, Authorized Agent of Corporate Creations Network, Inc., in person, at **5444 Westheimer #1000, Houston, Harris County, TX 77056-5306.**

I certify that I am over the age of 18 and have no interest in the above action. I am a certified process server, in good standing, in the judicial circuit in which the foregoing occurred. The facts in this affidavit are true, correct and within my personal knowledge.

Subscribed and Sworn to before me on the 30th day of November, 2020 by the affiant who is personally known to me.

NOTARY PUBLIC



Rebecca Chaudhury
Rebecca Chaudhury
PSC-5665, Exp. 09/30/2022

Wyatt Process Service, LLC
1 Chisholm Trail
Suite 450
Round Rock, TX 78681
(512) 501-4391

Our Job Serial Number: WYT-2020001243